

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.

Meeting Type: Regular

Meeting Date: Aug 11, 2016

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Purchase and Sales Agreement for a parcel of property located at 2410 Memorial Parkway North, and a Lease Termination Agreement which is conditioned upon the closing of this property.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a Purchase and Sales Agreement for a certain parcel of property located at 2410 Memorial Parkway North and a Lease Termination Agreement which is conditioned upon closing of the same.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: \$153,000

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: _____

Date: _____

RESOLUTION NO. 16-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby, authorized to enter into the following:

1. A contract by and between the City of Huntsville and Pless R. Knight and Mary L. Knight, which said agreement is substantially in words and figures the same as that certain document attached hereto and identified as "Real Estate Purchase and Sales Agreement between the City of Huntsville and Pless R. Knight and Mary L. Knight", consisting of ten (10) pages including attachments.
2. A Lease Termination Agreement by and among Antonio White, as Lessee; Pless R. Knight and Mary L. Knight, as Lessors, and the City of Huntsville, as Purchaser, which said agreement is substantially in words and figures the same as that certain document attached hereto and identified as "Lease Termination Agreement" which said Agreement is conditioned upon closing of the Real Estate Purchase and Sales Agreement referenced above and which consists of two (2) pages.

An executed copy of said documents after being signed by the Mayor, shall be permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 11th day of August, 2016.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 11th day of August, 2016.

Mayor of the City of Huntsville,
Alabama

REAL ESTATE PURCHASE AND SALES AGREEMENT

This Real Estate Purchase and Sales Agreement (this "Agreement") is entered into as of the _____ day of _____, 2016, by and between **THE CITY OF HUNTSVILLE**, an Alabama municipal corporation (hereinafter referred to as "Purchaser") who agrees to purchase certain real property described Section One (1) below from **PLESS R. KNIGHT AND MARY L. KNIGHT**, a married couple, (hereinafter jointly referred to as "Sellers"), who agree to sell the real property.

In consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of such by Sellers is hereby acknowledged, the parties hereby agree as follows:

1. Sale and Purchase.

Sellers hereby agree to grant, bargain, sell and convey to Purchaser the following real property (hereinafter referred to as "the Real Property") located at 2410 Memorial Parkway North, Huntsville, Alabama, and more particularly described in the Madison County Tax Assessment Information as Parcel Number 1407261001013000 and PPIN Number 14344, which is attached as Exhibit "A" hereto.;

2. Purchase Price.

The Purchase Price for the Real Property shall be ONE HUNDRED FIFTY-THREE THOUSAND AND 00/100 DOLLARS (\$153,000.00), which shall be payable at Closing.

3. Conditions of Sale.

(A) Purchaser's obligation to close on the purchase the Real Property is contingent upon the following:

(1) Purchaser's written approval of an owner's title commitment from Wilmer & Lee, P.A. Purchaser shall have sixty (60) days from the last date both parties sign this Agreement in which to obtain and review the title commitment. Purchaser shall have the right, in its sole discretion, to terminate this Agreement in the event any matters of title are unacceptable to Purchaser. Purchaser may exercise this right of termination as a result of unacceptable title concerns by giving Seller written notice of the termination within sixty (60) days of the last date both parties sign this Agreement.

(2) The results of an environmental assessment being acceptable to Purchaser. Purchaser shall have sixty (60) days from the last date both parties sign this Agreement in which to perform Phase I and Phase II Environmental Site Assessments. Sellers hereby grant access to the Real Property to Purchaser and Purchaser's environmental consultants to

perform the environmental assessment. Purchaser shall have the right, in its sole discretion, to terminate this Agreement in the event the results of the environmental assessment are unacceptable to Purchaser. Purchaser may exercise this right of termination as a result of unacceptable environmental concerns by giving Seller written notice of the termination within sixty (60) days of the last date both parties sign this Agreement.

(3) The results of a survey being acceptable to Purchaser. Purchaser shall have sixty (60) days from the date both parties sign this Agreement in which to obtain a survey of the Real Property. Sellers hereby grant access to the Property to Purchaser and Purchaser's surveying consultants to survey the Real Property. Purchaser shall have the right, in its sole discretion, to terminate this Agreement in the event the survey is unacceptable to Purchaser. Purchaser may exercise this right of termination as a result of unacceptable survey concerns by giving Sellers written notice of the termination within sixty (60) days of the last date both parties sign this Agreement.

(4) Purchasers' ability to obtain a written agreement to terminate the existing lease on the Real Property. The lease termination agreement shall be conditioned upon Purchaser and Sellers closing on the purchase and sale of the Real Property. Purchaser agrees to pay up to \$6,500.00 to Lessee in consideration of terminating the lease agreement. Purchaser shall have sixty (60) days from the last date both parties sign this Agreement in which to obtain a conditional lease termination agreement from the tenant on terms acceptable to Purchaser. Purchaser may exercise this right of termination as a result of not being able to terminate the lease by giving Sellers written notice of the termination within sixty (60) days of the last date both parties sign this Agreement.

Sellers represent that only lease currently encumbering the Real Property is that certain lease between Sellers and Antonio White dated October 1, 2013, a true and accurate copy of which has been provided to Purchaser.

4. Title.

The Real Property shall be conveyed to Purchaser by General Warranty Deed, satisfactory in manner and form to Purchaser and in accordance with the laws of the State of Alabama; conveying the Real Property, free and clear of all liens, encumbrances and other matters affecting title, except a lien for taxes not yet due and payable, matters of survey and existing easements and restrictions of record. Any existing mortgages on the Property shall be paid and/or satisfied at or prior to Closing. Sellers shall provide customary affidavits in order to establish clear title to the Real Property.

5. Closing.

The Closing shall take place within sixty (60) days after approval of the transaction by City Council and signing of this Agreement by the Mayor, if all contingencies are met. The parties further agree as follows:

a. Real property taxes for the current year shall be prorated between Sellers and Purchaser as of the Closing Date.

b. Sellers shall deliver an affidavit attesting that there are no liens against the Real Property and that Sellers are in sole possession of the Real Property, except for the tenant under the lease described above. Sellers agree to assign the lease described above to Purchaser effective as of the Closing Date.

c. Purchaser shall pay all costs of Closing, other than as specifically stated herein. Each party shall pay its own attorneys' fees in connection with this transaction.

d. Sellers shall provide a General Warranty Deed at Closing, to be prepared by Purchaser's counsel, at Purchaser's expense.

7. Commissions.

The parties represent that neither has incurred nor is obligated for any brokers' or finders' fees, and that no real estate commission are due on account of this transaction. Each party agrees to indemnify, defend and hold the other harmless from any claims, including attorneys' fees, that they may suffer as a result of any claim or action brought by any broker or real estate agent, acting on behalf of that party.

8. Time of the Essence.

Time is of the essence of this Agreement.

9. Attorneys' Fees.

In the event of a dispute between the parties pursuant to the terms of this Agreement, the prevailing party in any court of competent jurisdiction shall be entitled to collect reasonable attorneys' fees. In the event of dispute, the provisions of this Agreement shall not be construed against the party drafting this Agreement.

10. Successors.

All rights and obligations of Sellers and Purchaser under this Agreement shall inure to the benefit of and be binding upon their successors and assigns. Purchaser reserves the right to assign its interest in this Agreement.

11. Amendment.

No modification or amendment of this Agreement shall be of any force or effect unless the same shall be made in writing and executed by each party hereto. The terms and conditions of this Agreement shall survive closing.

12. Entire Agreement.

This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been relied upon by either party. Each party has had a full opportunity to examine this Agreement and/or has had the opportunity to have its counsel review said Agreement on its behalf.

13. Interpretation.

This Agreement shall be interpreted in accordance with Alabama law, without regard for Alabama's conflict of laws provisions.

14. Email or Facsimile Signatures.

The parties agree that this document may be executed and the signatures transmitted to the other parties by facsimile, email or similar electronic transmission. Upon transmission and receipt by another party, such signature shall be effective as an original. Notwithstanding the preceding sentence, the parties agree that they will transmit original signature pages to the other parties and their counsel promptly after execution.

15. Execution by Counterpart Originals.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. Counsel Acknowledgment.

The parties all acknowledge that Purchaser's counsel, JOSEPH A. JIMMERSON, and the law firm of Wilmer & Lee, P.A. (collectively "Counsel") prepared this Agreement on behalf of and in the course of their representation of Purchaser. For the purposes of this transaction, Purchaser's counsel represents Purchaser's interest and no other interests. Any conflicts of interest due to counsel's past representation of Sellers are hereby waived.

17. Waiver.

The waiver of default by either party of any provision of this Agreement shall not operate as a waiver of subsequent defaults.

18. Authority.

The parties acknowledge that all necessary action has been taken to authorize the entering into of this Agreement of behalf of each party. The parties acknowledge that once this Agreement is signed by the persons shown below, the agreement is binding on the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the respective dates set forth below.

PURCHASER:

THE CITY OF HUNTSVILLE

By: _____
Its: _____

Date: _____

ATTEST:

WITNESS:

Richard E. Dean
Ashley LaMar

WITNESS:

Richard E. Dean
Ashley LaMar

SELLERS:

By: Pless R. Knight
PLESS R. KNIGHT

Date: 8-3-16

By: Mary L. Knight
MARY L. KNIGHT

Date: 08.03.16

Fran Hamilton Tax Assessor Madison County

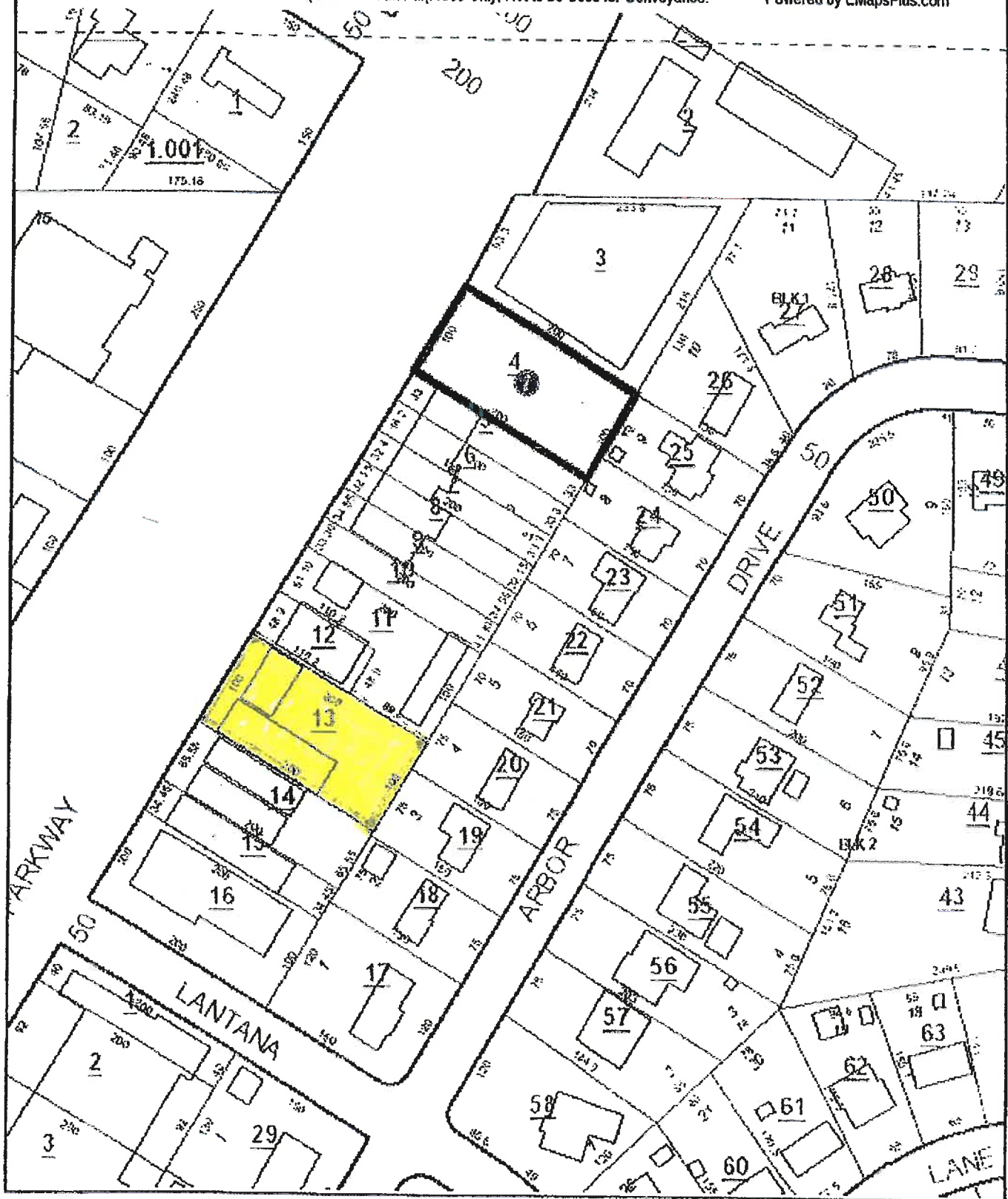
EXHIBIT "A"

Knight

Printed Thu Jul 10 2014

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Powered by EMapsPlus.com





Madison County

GIS INTERNET REPORT

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Fran I. Hamilton
Tax Assessor

Assessment Information

PARCEL NUMBER: 1407261001013000
OLD PARCEL NUMBER: 031W260 32
ACCOUNT NUMBER: 312316
PPIN NUMBER: 14344

Legal Description

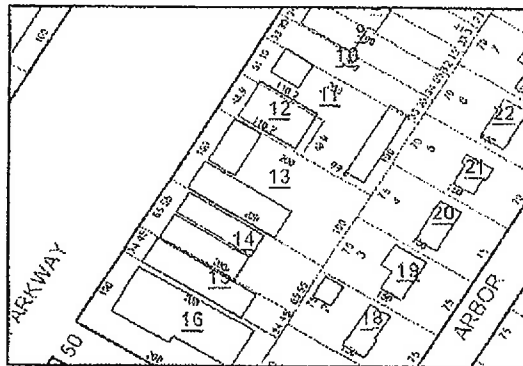
SEC 26 T3S R1W COMM AT THE CEN OF SEC 26 TH N
2482.3 FT E 1688.3 FT & S 31 DEG W 493.3 FT TO THE
POB TH S 58 DEG E 200 FT S 31 DEG W 100 FT N 58
DEG W 200 FT & N 31 DEG E 100 FT TO THE POB

Owner Information

Owner:	KNIGHT PLESS R & MARY L (JO)
Mailing Address:	124 BRITT ADAMS LN HAZEL GREEN AL 35750
Property Address:	2410 MEM PKY N

Other Information

Total Acres:	
Use Value:	\$0
Land Value:	\$100,000
Improvement Value:	\$30,500
Total Appraised Value:	\$130,500
Total Taxable Value:	\$130,500
Assessment Value:	\$26,100
Tax District:	02



Subdivision Information

Name:	
Lot:	
Block:	
Year/Book/Page:	2005/0309/0139680
Section:	26-3S-1W

[Deed Search](#)

Madison County, Alabama Disclaimer

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Madison County

GIS INTERNET REPORT

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Fran Hamilton
Tax Assessor

BUILDING COMPONENT INFORMATION

Name: KNIGHT PLESS R &
MARY L (JO)
Parcel Number: 1407261001013000
PPIN Number: 14344
Account Number: 312316

Improvement	
Year Built:	1959
Structure:	RETAIL STORE
Structure Code:	530
Total Living Area:	4,329
Building Value:	\$21,200

Roof Type
Flat-Shed 100

Roof Material
Built-Up Tar and Gravel 100

Exterior Walls
C.B. 8" Plain 100

Interior Finish
Mixed 18

Flooring
Mixed 9

Bathrooms

Fireplace

Central Heat & Air Conditioning
FHA/AC FHA

Extra Features

Building Computations			
Stories:	1.0	1st Level Sq. Ft.: 4,329	Total Living Area: 4,329
		Add'l Level Sq. Ft.: 0	Total Adjusted Area: 4,352

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Madison County

GIS INTERNET REPORT

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Fran Hamilton
Tax Assessor

BUILDING COMPONENT INFORMATION

Name: KNIGHT PLESS R &
MARY L (JO)
Parcel Number: 1407261001013000
PPIN Number: 14344
Account Number: 312316

Improvement	
Year Built:	1959
Structure:	RETAIL STORE
Structure Code:	530
Total Living Area:	1,860
Building Value:	\$9,300

Roof Type
Flat-Shed 100

Roof Material
Built-Up Tar and Gravel 100

Exterior Walls
Mixed 33

Interior Finish
Mixed 18

Flooring
Vinyl 100

Bathrooms

Fireplace

Central Heat & Air Conditioning
AC ONLY SUSPENDED HEAT

Extra Features

Building Computations			
Stories:	1.0	1st Level Sq. Ft.:	1,860
		Total Living Area:	1,860
		Add'l Level Sq. Ft.:	0
		Total Adjusted Area:	1,896

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LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT ("this Agreement") is made and entered into as of this the ____ day of _____, 2016, by and among ANTONIO WHITE ("Lessee"), PLESS R. KNIGHT and MARY L. KNIGHT ("Lessor") and THE CITY OF HUNTSVILLE, an Alabama municipal corporation ("Purchaser").

WHEREAS, Lessor is the owner of certain real property located at 2408 and 2410 North Memorial Parkway, Huntsville, Alabama 35811 ("the Real Property"); and

WHEREAS, Lessor currently leases the Real Property to Lessee, under that certain Lease Agreement dated October 1, 2013 ("the Lease Agreement"); and

WHEREAS, Lessor has entered into a Purchase and Sales Agreement to sell the Real Property to Purchaser, contingent upon, among other things, Lessee agreeing to terminate the Lease Agreement; and

WHEREAS, Lessee is willing to terminate the Lease Agreement in consideration of the items described blow.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Lessor agrees to assign the Lease Agreement to Purchaser as of the date that Lessor and Purchaser close on the purchase and sale of the Real Property and to remit any security deposit held by Lessee to Purchaser at the closing.

2. Purchaser agrees to pay to Lessee the sum of \$6,500.00 in consideration of terminating the Lease Agreement, within ten (10) days of the date that Lessor and Purchaser close on the purchase and sale of the Real Property.

3. Upon receipt of the sum of \$6,500 from Purchaser, Lessee agrees that the Lease Agreement is terminated and, not later than ten (10) days thereafter, agrees to remove all personal property from the premises and vacate the Real Property.

4. Lessee hereby warrants and affirms that (a) he is the lessee under the Lease Agreement, (b) that he has not assigned the Lease Agreement or sublet the Real Property and that there are no other parties in possession of the Real Property.

5. This Lease Termination Agreement is strictly conditioned upon the closing of the purchase and sale of the Real Property between Purchaser and Lessor. In the event that the purchase and sale does not close within three (3) months from the date of this Agreement, then this Agreement shall be null and void.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the respective dates shown below.

[SIGNATURES ON FOLLOWING PAGE]

PURCHASER:

THE CITY OF HUNTSVILLE

ATTEST:

By: _____

Its _____

Date: _____

LESSOR:

By: Pless R. Knight
PLESS R. KNIGHT

Date: 8-3-14

By: Mary L. Knight
MARY L. KNIGHT

Date: 08-03-16

LESSEE:

By: Antonio White
ANTONIO WHITE

Date: 8-2-16

ATTEST:

Richard E. Duch

ATTEST:

Richard E. Duch

ATTEST:

Mike Fuller

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 8/4/2016

Department Contact: Trey Riley

Phone # 427-5016

Contract or Agreement: Purchase and Sale Agreement for N. Mem. Pkwy property

Document Name: Lease Termination Agreement for same parcel of proeprty

City Obligation Amount: \$153,000

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

Not Applicable

Not Applicable

Grant-Funded Agreements

Not Applicable

Grant Name:

Department	Signature	Date
1) Originating	<i>Mary C. Cates</i>	<i>8/4/2016</i>
2) Legal	<i>Mary C. Cates</i>	<i>8/4/2016</i>
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		